

REMARKS

Applicants request reconsideration of the above-identified application in light of the remarks set forth herein. Claims 1 and 2 are pending in this application. Claims 1 and 2 have been amended.

Claims 1 and 2 have been rejected under 35 U.S.C. §§ 112 and § 103(a). Applicants respectfully submit that all claims are now in condition for allowance. Accordingly, applicants request reconsideration and allowance of all claims,

Claim Rejections Under 35 U.S.C. § 112

Claims 1 and 2 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite with respect to an X-ray diffraction measurement performed "near" a bottom center area of the manufactured container. Specifically, the Office Action states that it is unclear as to what is meant by the term "near." Applicants have entered an appropriate correction.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as being unpatentable as obvious over U.S. Patent No. 5,520,877, issued to Collette et al. (hereinafter "Collette") in view of the newly cited reference, European Patent No. EP 0 683 029, issued to Nakamaki et al. (hereinafter "Nakamaki"). Applicants respectfully disagree.

To establish a prima facie case of obviousness, the cited prior art references must teach or suggest all of the claim elements. In addition, there must be some apparent reason, either in the references or in the knowledge of one skilled in the art, to modify the reference or to combine the elements of multiple references with a reasonable expectation of success.

Claim 1, as currently amended, recites a biaxially-oriented polyester container formed by a double-stage orientation blow molding method, the container having a uniformly elongated and thin-walled bottom part. When an X-ray diffraction measurement is performed in a bottom

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center area and within 1/2 of the radius of a container bottom part of said biaxially-oriented polyester container, a peak indicative of molecular orientation is observed near a diffraction angle of $2\theta = 15$ to 30° . In addition, an orientation parameter (BO) expressed by the following formula is in the range of $0.5 \leq BO \leq 2$ in the bottom center area and within 1/2 of the radius of the container bottom part: orientation parameter (BO) = I_x / I_y . I_x indicates a diffraction intensity near the diffraction angle of $2\theta = 15$ to 30° when the X-ray diffraction measurement is performed in the X-direction, and I_y indicates a diffraction intensity near the diffraction angle of $2\theta = 15$ to 30° when the X-ray diffraction measurement is performed in a direction orthogonal to that for I_x .

The Office Action cites Collette as teaching a method for forming a biaxially-oriented, bottle-shaped container by first blow-molding a preform to a size larger than the final product size, heat-shrinking the intermediate product, and then blow-molding the intermediate to obtain the final product. The Office Action admits that Collette is silent with respect to whether the bottom of the preform is unrestrained during the primary blow-molding step. Moreover, the Office Action further states that, even though Collette is silent with respect to X-ray diffraction values and orientation parameter values, such properties would be inherent in an article made of the same material in the same way.

The Office Action cites Nakamaki as disclosing a process for preparing a container wherein the bottom of the preform is unrestrained during the primary blow-molding step (noting Figures 2A, 2F, and paragraphs [0061] through [0065] of Nakamaki). The Office Action states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Collette with the teachings of Nakamaki to develop a process that produces a one-piece polyester model having a bottom with excellent mechanical strength.

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Applicants respectfully disagree with the analysis in the Office Action. In that regard, the cited references, whether cited alone or in combination, fail to teach or suggest all of the claim elements of Claims 1 and 2. Specifically, the cited references fail to teach or suggest "a uniformly elongated and thin-walled bottom part," as recited in amended Claim 1, as well as the claimed X-ray diffraction values and orientation parameter values.

Applicant disagrees with the argument in the Office Action that even though Collette is silent with respect to X-ray diffraction values and orientation parameter values, such properties would be inherent in an article made of the same material in the same way. In that regard, the bottom part of the container shown in Collette is not oriented at all in the first expansion step performed in the first mold units. As described in Column 3, lines 47-52, of Collette, the resulting container based includes a thickened base portion of low orientation and crystallinity, such that the thickened base portion is at least 3x the thickness of the sidewall. Due to these differences, the base portion in Collette would not inherently have the X-ray diffraction and orientation parameter values of the claimed invention.

Moreover, Nakamaki fails to cure the deficiencies of Collette. Specifically, Nakamaki fails to teach or suggest "a uniformly elongated and thin-walled bottom part," as recited in amended Claim 1. In contrast, Nakamaki refers to thick and thin portions on the bottom of the containers, such that the center of the bottom portion is thicker than the periphery of the bottom portion of the container (see, e.g., paragraph [0063] of Nakamaki). Therefore, Nakamaki does not teach or suggest a uniformly elongated and thin-walled bottom part or the claimed X-ray diffraction values and orientation parameter. Accordingly, the cited references, whether cited alone or in combination, fail to teach or suggest all of the claim elements.

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For at least this reason, the cited references, whether alone or in combination, fail to render obvious Claims 1 and 2. Accordingly, applicants respectfully request withdrawal of the rejections to these claims.

Conclusion

In view of the foregoing amendments and remarks, applicants respectfully submit that the present application is in condition for allowance. The Examiner is invited to contact the undersigned representative with any remaining questions or concerns.

Respectfully submitted,

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